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REMARKS

Claims 1-26 are pending, of which claims 16-26 are withdrawn. Claims 1 and 15 are currently amended to clarify that the usage information is for demand-cast guide pages. Applicants traverse all of the rejections in the Office Action and respectfully request reconsideration and passage of the claims to allowance for the following reasons.

Claims 1-15 are patentable over Gordon under §102

Claims 1-15 were rejected under 35 U.S.C. 102(b) as being anticipated by Published International Application WO 98/31115 for Gordon et al. (Gordon).

According to MPEP §2131, to anticipate a claim under §102, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Claim 1 recites, *inter alia*, "the transport stream generator for receiving demand-cast guide page usage information from the session manager, for using said information to control which demand-cast streams associated with guide pages of said array of guide pages are multiplexed into a transport stream, and for generating the multiplexed transport stream for transmission to a plurality of terminals via the distribution network". Claim 1 is amended to clarify that the usage information is for demand-cast guide pages. Gordon fails to teach at least these elements of claim 1 expressly or inherently.

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By contrast, Gordon discloses that the video session manager 106 sends a subscriber identifier associated with a selected program (e.g., movie) to the server 102, before processing the data streams for the program (e.g., movie) to the subscriber. (See Gordon, page 9, line 33 to page 10, line 7.) The subscriber identifiers, "PIDs", are not the same as the claimed "demand-cast guide page usage information". First, the claimed invention is tracking the usage of interactive program guide (IPG) pages (i.e., guide pages), not programs (e.g., movies). Second, the claimed invention is not tracking this guide page usage information in order to present programs to a user, but to present guide pages. Program guide pages are different from programs, because they provide a guide as to what programs are scheduled. Third, the claimed invention is tracking demand-cast guide page usage information in order to control which demand-cast streams associated with guide pages are transmitted, while Gordon is simply determining which subscriber requested the selected program. Gordon does not address the problem that the claimed invention is solving.

The claimed invention provides a system for more efficient utilization of the finite bandwidth available for distribution of interactive program guide (IPG) pages. The system utilizes a session manager and a transport stream generator to enable a set top terminal to access an entire array of guide pages from the IPG within the constraints imposed by the limited bandwidth available in the distribution network. Certain pages in the guide page matrix, such as those in the current time slot and adjacent time slots (i.e., near look-ahead) are likely to be accessed frequently by set top terminal users. Similarly, other guide pages, (i.e., far look-ahead pages) are likely to be accessed less frequently. This characteristic in guide page usage lends the IPG well to a demand-cast model. Access to all of the guide pages in the guide page matrix can be made possible by sending in the transport a combination of constantly broadcast guide pages for those pages that are most frequently accessed and temporarily broadcast or demand-cast guide pages for those less frequently accessed. Demand-cast guide pages are inserted into the transport stream for temporary broadcast based on demand-cast guide page usage information.

Therefore, claim 1 is patentable over Gordon under §102.

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Claims 2-15 depend, directly or indirectly, from claim 1 and, thus, inherit the patentable subject matter of claim 1, while adding additional elements and further defining elements. Therefore, claims 2-15 are also patentable over Gordon under §102 for at least the reasons given above with respect to claim 1.

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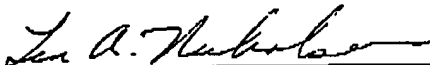
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CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and passage of the claims to allowance. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Lea A. Nicholson or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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